

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

LINDA MIGLIORI, FRANCIS J. FOX,
RICHARD E. RICHARDS, KENNETH
RINGER, and SERGIO RIVAS,

Plaintiffs,

and

ZACHARY COHEN,

Intervenor- Plaintiff,

v.

LEHIGH COUNTY BOARD OF ELECTIONS,

Defendant,

and

DAVID RITTER,

Intervenor-Defendant.

No. 5:22-cv-00397

**STATEMENT AS TO PLAINTIFFS' PETITION FOR ATTORNEYS' FEES
FILED BY LEHIGH COUNTY BOARD OF ELECTIONS**

The Lehigh County Board of Elections ("Board"), above-captioned Defendant, by and through its undersigned counsel, respectfully submits this Statement as to Plaintiff's Petition for Attorneys' Fees filed by Linda Migliori, Francis J. Fox, Richard E. Richards, Kenneth Ringer, and Sergio Rivas, above-captioned Plaintiffs, as directed by this Court's Order dated October 20, 2023 (ECF No. 90):

Plaintiff's fee petition should be denied because although Plaintiffs obtained temporary relief in the U.S. Court of Appeals for the Third Circuit, the United States Supreme Court vacated the relief obtained, which resulted in the Court taxing costs against Plaintiffs. As such, the Board

respectfully submits the Plaintiffs are not entitled to an award of attorney fees as they are not prevailing parties and, even if they were prevailing parties—which they were not—the attorney fees award sought by Plaintiffs is unreasonable and equitably unjustifiable.

To that end, the fees sought by Plaintiffs against the Board, a local government entity—which total approximately \$250,000 (in addition to the \$250,000 in fees sought by Plaintiffs for litigating this matter before the Third Circuit, for a total of approximately \$500,000) for drafting briefs and attending oral argument *in a case that did not involve a trial nor a single evidentiary hearing*—is unreasonable and excessive. Therefore, for the reasons set forth more fully in the Board’s opposition to Plaintiffs’ petition for attorney fees, the Court should significantly reduce the requested fees or limit the fees to a nominal award, particularly considering the narrow relief Plaintiffs obtained here, which consisted of ephemeral success on a single count of their three-count complaint. In any event, a hearing is necessary regarding the unreasonableness and excessiveness of Plaintiff’s request for attorney’s fees.

Respectfully Submitted,

Repka Mazin, LLC

Date: October 24, 2023

By: Lucas J. Repka

Lucas J. Repka
Pa. I.D. No. 93509
108 East Center Street
Nazareth, Pennsylvania 18064
Phone : (610) 365-2670
Email: Lucas@repkamazinlaw.com
*Counsel for the Lehigh County Board of
Elections, Defendant*

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Answer to Petition for Attorneys' Fees was served on all parties of record via the Court's CM/ECF system on the date set forth below.

Date: October 24, 2023

By: Lucas J. Repka

Lucas J. Repka

Pa. I.D. No. 93509

108 East Center Street

Nazareth, Pennsylvania 18064

Phone : (610) 365-2670

Email: Lucas@repkamazinlaw.com

*Counsel for the Lehigh County Board of
Elections, Defendant*